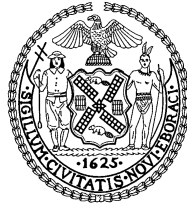


# EXHIBIT 50



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August 23, 2023

**By Email**

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Re: *Nunez, et al. v. City of New York et al.*, 11-cv-5845 (LTS)

Dear Counsel:

Defendants, the City of New York (“City”) and Department of Correction (“DOC” or “the Department”) (collectively “defendants”), write pursuant to the Consent Judgment, Section XXI, ¶, in response to your letter, dated July 24, 2023, alleging that Defendants are not in compliance with their obligations under various provisions of the Consent Judgment. Defendants dispute Plaintiffs’ contention. Defendants have diligently worked setting policies and persons in place to enact compliance with the Consent Judgment and ensuing orders. With respect to the specific sections with which Plaintiffs have raised non-compliance:<sup>1</sup>

1. Consent Judgment, § IV, ¶ 1: Implement New Use of Force Directive<sup>2</sup> - The Department has been in substantial compliance with the development and adoption of the Use of Force

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<sup>1</sup> Counsel is also referred to the Department’s Sixteenth Compliance Report, dated August 17, 2023 (“16<sup>th</sup> Report”) for additional relevant information.

<sup>2</sup> Within 30 days of the Effective Date, in consultation with the Monitor, the Department shall develop, adopt, and implement a new comprehensive use of force policy with particular emphasis on permissible and impermissible uses

Policy, which received approval by the Monitor. Dkt. 517 at 144-45. The Department continues to implement the Use of Force Policy through training, refresher training, corrective action taken after a Rapid Review, and discipline following a formal investigation.

2. Consent Judgment, § VII, ¶ 1: Thorough, Timely, Objective Investigations of Use of Force Incidents<sup>3</sup> - The Department has taken the following steps to improve investigations of Use of Force incidents overall, including, but not limited to, the below:
  - a. The Department changed the Investigation Division's leadership in April 2023:
    - i. Deputy Commissioner Pritchett was appointed Acting Deputy Commissioner of the Investigation Division in April 2023. She was subsequently appointed Deputy Commissioner of the Investigation Division on August 3, 2023. Wilfredo Perez, Jr. was appointed the UOF/Intake Assistant Commissioner of the Investigation Division on August 8, 2023.
  - b. Within the Investigation Division:
    - i. Two Rapid Review teams have been created, each comprised of four investigators and a supervisor, which conduct assessments of all UOF incidents within hours of their being reported to determine if immediate disciplinary action should be taken against any officer, with special attention to incidents involving ESU.
    - ii. The Director of Full ID investigations reviews cases referred for full investigation daily to provide guidance to investigators on actions to be taken.
    - iii. Full ID investigators meet with their supervisor and a Deputy Director five days after being assigned a case to develop an investigative plan.
    - iv. Extensive training has been conducted on completing objective investigations and preparing comprehensive reports.
    - v. Under ID management, ID has taken substantive steps to increase internal training opportunities for all investigative staff. As part of this effort, investigators have received refresher trainings for report-writing, interactive interview trainings of officers and PICs, and appropriately identifying issues through review of video footage. In collaboration with DC Gonzalez, the new investigator training has been included into LMS and the training

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of force ("New Use of Force Directive"). The New Use of Force Directive shall be subject to the approval of the Monitor.

<sup>3</sup> As set forth below, the Department shall conduct thorough, timely, and objective investigations of all Use of Force Incidents to determine whether Staff engaged in the excessive or unnecessary Use of Force or otherwise failed to comply with the New Use of Force Directive. At the conclusion of the investigation, the Department shall prepare complete and detailed reports summarizing the findings of the investigation, the basis for these findings, and any recommended disciplinary actions or other remedial measures. All investigative steps shall be documented.

- manual for new investigators is currently being updated by the Training Academy, which will be sent to the Monitoring Team for their consultation.
- vi. Additional Supervisor support and additional resources to improve Intake Investigations have been made available (e.g. investigation checklist, report writing documentation, and interactive coaching).
  - vii. DC Pritchett established ongoing meetings with the Monitor to discuss feedback regarding the quality of Use of Force Investigations and formulate a plan to address the feedback and created recurring staff town hall meetings to keep all Investigation Division staff aware of the conversations with the Monitor and provide the necessary support to make sure Use of Force Investigations are being conducted efficiently and appropriately. During these meetings it is continuously re-emphasized that staff should conduct investigations without fear or favor.
  - viii. Since March 2023, an Intake Quality Assurance Team has been established to audit 30 intake investigations each week on a random basis to ensure that no case is being closed erroneously. The Team is comprised of a Senior Investigator, a Supervising Investigator and an experienced attorney. Similarly, the Director of Full ID audits five Full ID cases each week that have been closed without charges. The audits have not revealed any substantial errors.
  - ix. Additionally, as of August 22, 2023, the Division has completed review of 70% (333 of 473) of the closed Intake and Full ID investigations the Monitoring Team identified as “Look-back” incidents. Any incident that was found to require further investigative actions were subsequently reopened.
  - x. The Investigation Division and the Office of Management, Analysis and Planning (“OMAP”) have been meeting for the last six weeks to plan department wide Steering Committee Meetings to promote better collaboration and coordination for Use of Force Investigations. The meetings will also focus on identifying the root causes of Use of Force at the facility level to help determine ways to address these issues and will be initiated in the coming months.
- c. With respect to facility based Rapid Reviews, the Department has done the following:
- i. Every day each facility conducts rapid reviews and on weekdays there is a call at 1 p.m. with the DC of Security’s Office, the leadership of each facility, and Assistant Commissioners from the DC of Facility Operations office to discuss the rapid reviews and issue any necessary corrective action or immediate discipline.
  - ii. The Department’s Nunez Compliance Unit (“NCU”) is in the process of working on a new Rapid Review spreadsheet, intended to be more efficient

and capture information more easily, in consultation with the Monitoring Team, which should be rolled out in October. As noted by the Monitor, while Rapid Reviews do not reliably identify all issues, they do “continue to be a valuable tool and the improvements in identification of issues in this Monitoring Period is encouraging.” (Apr. 3, 2023 rpt., p. 127).

3. Consent Judgment, § VII, ¶ 4: Addressing Biased, Incomplete, or Inadequate Investigations of Use of Force Incidents<sup>4</sup> – The Department remains committed to conducting investigations in an unbiased and complete manner, which has been emphasized to ID staff by Department leadership, through DC Pritchett. As discussed in paragraph 2, *supra*, the Intake Quality Assurance Team has been established to audit intake investigations to ensure compliance and, as discussed in the 16<sup>th</sup> Report, reinforces in each Town Hall meeting the need to conduct investigations without fear or favor.
4. Consent Judgment, § VII, ¶ 9(a): Timeliness of Full ID Investigations<sup>5</sup> – As noted in paragraph 2, *supra*, and paragraph 6, *infra*, the Department is taking significant steps to improve investigations of Use of Force incidents overall. In addition, The Office of Management and Planning Analysis (OMAP) is developing an ID Dashboard to track the timeliness of investigations in more detail, a draft of which will be completed in the coming months. The Monitoring Team will be consulted.

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<sup>4</sup> Any Staff Member found to have conducted a biased, incomplete, or inadequate investigation of a Use of Force Incident, and any Supervisor or manager who reviewed and approved such an investigation, shall be subject to appropriate discipline, instruction, or counseling.

<sup>5</sup> All Full ID Investigations shall satisfy the following criteria: a. Timeliness. 1. Beginning on the Effective Date and for three years following the Effective Date, or until October 1, 2018, whichever is earlier: 1. ID shall complete all Full ID Investigations by no later than 180 days from the date the Use of Force Incident was referred to ID ("Referral Date"), absent extenuating circumstances outside the Department's control that warrant an extension of this deadline. Any extension of the 180-day deadline shall be documented and subject to approval by the DCID or a designated Assistant Commissioner. Any Full ID Investigation commenced after the Effective Date that is open for more than 180 days shall be subject to monthly reviews by the DCID or a designated Assistant Commissioner to determine the status of the investigation and ensure that all reasonable efforts are being made to expeditiously complete the investigation. 2. The Department shall make every effort to complete Full ID Investigations of less complex cases within a significantly shorter period than the 180-day time frame set forth in the preceding subparagraph. 11. Beginning on October 1, 2018, or three years after the Effective Date, whichever is earlier, and for the duration of the Agreement: 1. ID shall complete all Full ID Investigations by no later than 120 days from the Referral Date, absent extenuating circumstances outside the Department's control that warrant an extension of this deadline. Any extension of the 120-day deadline shall be documented and subject to approval by the DCID or a designated Assistant Commissioner. Any Full ID Investigation that is open for more than 120 days shall be subject to monthly reviews by the DCID or a designated Assistant Commissioner to determine the status of the investigation and ensure that all reasonable efforts are being made to expeditiously complete the investigation. 2. The Department shall make every effort to complete Full ID Investigations of less complex cases within a significantly shorter period than the 120-day time frame set forth in the preceding subparagraph. iii. In the event that a Use of Force Incident is referred to DOI, or following the further referral by DOI to the District Attorney's Office ("DA") or another outside law enforcement agency, for investigation or a decision on immunity, the time period for the Department to complete the Full ID Investigation shall be tolled while the other agency is investigating the matter or making a decision on immunity. ID shall on at least a monthly basis contact DOI to monitor the status of investigations referred to other law enforcement agencies.

5. Consent Judgment, § VII, ¶ 11: ID Staffing<sup>6</sup> – Currently, the Investigation Division has 19 supervisors (13 Supervising Investigators and 6 Captains) - 16 of which are supervising investigative teams (14 as direct supervisors and 2 in acting DDI roles) and 81 investigators (5 of which are out on long-term leave); 65 of the investigators are assigned to investigative teams, with the remaining investigators assigned to Quality Assurance, video preservation, legal requests, and tracking. The Department has issued a posting for additional investigator positions to bring the investigator total to 85. Additionally, per the Court’s August 10, 2023 Order, which was based on Monitor recommendations, Defendants have until December 31, 2023 to maintain 21 supervisors and 85 investigators, pending an internal staffing analysis done by the Department. Dkt. 564.
  
6. Consent Judgment, § VIII, ¶ 1: Appropriate and Meaningful Discipline for Use of Force Violations<sup>7</sup> - As noted in the Monitor’s July Report, since January 2022 “[c]ase processing within the Trials Division has improved with the reduction in the backlog [. . .] streamlined internal processes, increased capacity at OATH, and enhanced staffing levels.” July Report at 134. Since the inception of the Action Plan, in June 2022 the Department has expedited the processing of the most egregious misconduct cases and resolved the majority with close-in-time discipline. It has eliminated the backlog of use of force disciplinary cases for incidents that occurred prior to December 31, 2020, and is now working toward closing the backlog of cases that occurred between January 1, 2021, and June 30, 2022. As of August 15, 2023, 94% of these cases have been closed or are in the closing process for active MOS (and 92% of all of these cases have been closed or are in the closing process). Moreover, between January 2022 and May 2023, the Department closed 2,441 cases involving UOF-related discipline, and the number closed in 2022 (2,163) was nearly the same as in the previous five years combined (2,225). Significantly, the Monitor reports that it “has not identified an overall negative impact on the appropriateness of the dispositions given the large number of closures.” (*Id.* at 136). This data demonstrates that the Department is committed to holding wrongdoers accountable.
  - a. The Department is committed to accountability and improving leadership overall, including facility leadership. In 2022 Commissioner Molina replaced all uniformed Wardens and brought in civilian Assistant Commissioners to oversee facilities (ACs Cort and Harvey, formerly uniformed Wardens, were exemplary staff and were therefore hired as Assistant Commissioners for GRVC and EMTC, respectively). The Commissioner has also fired senior executive leadership and reassigned facility leadership for poor performance and/or judgment.
  - b. The Command Discipline policy is being revised, taking into account Monitoring Team feedback, and will be shared with them for their approval. The Command

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<sup>6</sup> The Department, if necessary, shall hire a sufficient number of additional qualified ID Investigators to maintain ID Investigator caseloads at reasonable levels so that they can complete Full ID Investigations in a manner that is consistent with this Agreement, including by seeking funding to hire additional staff as necessary.

<sup>7</sup> The Department shall take all necessary steps to impose appropriate and meaningful discipline, up to and including termination, for any Staff Member who violates Department policies, procedures, rules, and directives relating to the Use of Force, including but not limited to the New Use of Force Directive and any policies, procedures, rules, and directives relating to the reporting and investigation of Use of Force Incidents and video retention ("UOF Violations").

Discipline structure will be streamlined under Chief Rembert, increasing consistency, efficiency, transparency, and accountability.

7. Consent Judgment § XV, ¶ 1: Prevent Fights/Assaults (Safety and Supervision of Inmates Under the Age of 19)<sup>8</sup> – The Department has taken significant strides in preventing fights and assaults to achieve safety and security for persons in custody. Notably:
  - a. There were 237 slashings/stabbings in the six months between July 1, 2021, and December 31, 2021. That number was 164 in the six months between January 1, 2023, and June 30, 2023, a 31 percent decline. Correspondingly, serious injuries to incarcerated individuals (SITI) have declined 39% comparing the two periods.
  - b. Slashings/stabbings decreased most precipitously in the Robert N. Davoren Center (“RNDC”), which houses DOC’s youngest detainees and where Commissioner Molina first concentrated the Department’s efforts. There were 82 slashings/stabbings there in the last half of 2021 and 28 in the first half of 2023, a 66 percent decline.
  - c. Since early 2022, DOC has followed best correctional practices by not allowing any one gang to control a housing unit. Blended housing units initially led to a spike in slashings/stabbings in the George R. Vierno Center (“GRVC”), which houses DOC’s most violent adult offenders, but the numbers have now declined sharply. There were 102 slashings/stabbings at GRVC in the last six months of 2022 as compared to 46 in the first six months of 2023, a 55 percent decline.
  - d. Overall use of force numbers have dropped from 3,837 between July 1, 2021, and December 31, 2021, to 3,237 between January 1, 2023, and June 30, 2023, a 16 percent decline. Total uses of force, however, is not the most meaningful measure. Any time an officer makes contact with an incarcerated individual to compel behavior it counts as a use of force, no matter how slight the contact. The more significant metric is uses of force that result in injury to an individual (Use of Force Class A and B). In the period July 1, 2021, to December 31, 2021, the number of Class A uses of force, the most serious, was 218. In the six months between January 1, 2023, and June 30, 2023, the number declined to 93, a 57 percent reduction. Class B uses of force, pertaining to incidents which do not require hospitalization or medical treatment, have also declined from 427 to 241 during the same periods, a 44 percent decrease.
8. Consent Judgment § XV, ¶ 12: Direct Supervision (Safety and Supervision of Inmates Under the Age of 19)<sup>9</sup> – Approximately 94.8% of all staff assigned to RNDC have completed the Direct Supervision training course. Additionally, the Monitor has not raised an issue with the staffing levels in Young Adult Housing Areas. The Consent Judgment requires the below staffing levels for Young Inmate Housing Areas:

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<sup>8</sup> 18-year-olds - Young Inmates shall be supervised at all times in a manner that protects them from an unreasonable risk of harm. Staff shall intervene in a timely manner to prevent inmate-on inmate fights and assaults, and to de-escalate inmate-on-inmate confrontations, as soon as it is practicable and reasonably safe to do so.

<sup>9</sup> 18-year-olds - The Department shall adopt and implement the Direct Supervision Model in all Young Inmate Housing Areas.



- a. The ratio between Inmates and Direct Supervision floor officers shall be no more than 15:1 in Young Inmate Housing Area units used for Inmates under the age of 18, except during the overnight shift when the ratio may be up to 30: 1. The maximum living unit size shall be 15 Inmates.
- b. The ratio between Inmates and Direct Supervision floor officers shall be no more than 25:2 in Young Inmate Housing Area units used to house high classification 18-year olds, except during the overnight shift when the ratio may be up to 25:1. The maximum living unit size shall be 25 Inmates.
- c. The ratio between Inmates and Direct Supervision floor officers shall be no more than 30:1 in Young Inmate Housing Area units used to house medium classification 18-year olds. The maximum living unit size shall be 30 Inmates. (XV(16)(a)-(c)).

9. Consent Judgment § XV, ¶ 17: Consistent Assignment of Staff (Safety and Supervision of Inmates Under the Age of 19)<sup>10</sup> – The Department has significantly reduced the staff outages from 2021. In January 2022, the average number of officers out sick was 2,096. In June 2023, this number was 449, a 78 percent reduction from January 2022. On average, 7.4 percent of staff are now out sick on a day as compared to 28.7 percent in January 2022. The continued operation of the Schedule Management and Redeployment Team (“SMART”) has enabled the Department to identify mandatory posts and gaps in staff deployment across facilities to improve security and supervision. Additionally, the Department has installed consistent facility leadership with the appointment of an Associate Commissioner assigned to oversee RNDC for the Deputy Commissioner of Facility Operations and the appointment of an Assistant Commissioner of RNDC. The Department is also holistically evaluating Awarded Posts to determine if Awarded Posts would be appropriate for young adult housing areas, which would assist with steady and consistent staffing in hard to recruit for posts. Finally, it’s not necessarily about the consistency of staff but about the consistent delivery of services by staff, regardless of who is assigned to the post. Through the consistent facility leadership at RNDC and the oversight of the Programs and Community Partnerships Division, the Department is improving the consistent delivery of services it provides to the young adult population.

10. First Remedial Order, § A, ¶ 2: Facility Leadership Responsibilities<sup>11</sup> – Each day facility leadership conducts rapid reviews of its facility’s Use of Force incidents. Each weekday at

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<sup>10</sup> 18-year-olds - The Department shall adopt and implement a staff assignment system under which a team of officers and a Supervisor are consistently assigned to the same Young Inmate Housing Area unit and the same tour, to the extent feasible given leave schedules and personnel changes.

<sup>11</sup> Each Facility Warden (or designated Deputy Warden) shall routinely analyze the Use of Force Reviews, the Department leadership’s assessments of the Use of Force Reviews referenced in Paragraph A.1(i) above, and other available data and information relating to Use of Force Incidents occurring in the Facility in order to determine whether there are any operational changes or corrective action plans that should be implemented at the Facility to reduce the use of excessive or unnecessary force, the frequency of Use of Force Incidents, or the severity of injuries or other harm to Incarcerated Individuals or Staff resulting from Use of Force Incidents. Each Facility Warden shall confer on a routine basis with the Department’s leadership to discuss any planned operational changes or corrective action plans, as well as the impact of any operational changes or corrective action plans previously implemented. The results of these meetings, as well as the operational changes or corrective action plans discussed or implemented by the Facility Warden (or designated Deputy Warden), shall be documented.



1 p.m., the DC of Security's Office convenes a call with facility leadership to discuss the Rapid Reviews and issue corrective action and immediate discipline, as necessary, and escalation. The DC of Security's Office reports the results of the Rapid Reviews to NCU.

11. First Remedial Order, § A, ¶ 4: Supervision of Captains<sup>12</sup> - As of July 24, 2023, a cohort of 12 ADWs were promoted. After tracking by the Department, two of the 12 ADWs were demoted due to issues while on probation. The Department currently has 95 ADWs deployed, providing improved supervision of Correction Captains. Leadership is consistently monitoring the span of control between ADWs and Captains to ensure adequate supervision.
12. First Remedial Order, § A, ¶ 6: Facility Emergency Response Teams<sup>13</sup> - The Department has taken steps to evaluate the use of Emergency Response Teams. A new ESU leader was appointed in April 2023, and all current ESU team members were screened for fitness to service as of July 2023. The Department is reviewing revisions to policies, procedures, and CLOs; two CLOs were provided to the Monitoring Team for review on July 18 and 19, 2023. The Department received feedback for one of those CLOs (pepperball) on August 17, 2023. The Department is evaluating any remaining active CLOs and will provide a response to the Monitoring Team by August 25, 2023 if any additional CLOs need revision. Additionally, the Department's rapid review teams conduct assessments of all use of force incidents within hours of their being reported to determine if immediate disciplinary action should be taken against any officer, with special attention to incidents involving ESU. A request has been made to the Monitoring Team regarding a change in policy that ESU can only be deployed if ordered by the DC of Security's Office. Currently, the policy is that a facility Tour Commander can call for ESU to be deployed. The Facility Response Teams draft directive was sent to the Monitoring Team on July 26, 2023. Further, ESU training

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<sup>12</sup> The Department, in consultation with the Monitor, shall improve the level of supervision of Captains by substantially increasing the number of Assistant Deputy Wardens ("ADWs") currently assigned to the Facilities. The increased number of ADWs assigned to each Facility shall be sufficient to adequately supervise the Housing Area Captains in each Facility and the housing units to which those Captains are assigned, and shall be subject to the approval of the Monitor. i. Within 60 days of the Order Date, RNDC, and at least two other Facilities to be determined by the Commissioner in consultation with the Monitor, shall satisfy the requirements of this provision. ii. Within 120 days of the Order Date, at least three additional Facilities to be determined by the Commissioner in consultation with the Monitor, shall satisfy the requirements of this provision. iii. By December 31, 2020, all Facilities shall satisfy the requirements of this provision.

<sup>13</sup> Within 90 days of the Order Date, the Department shall, in consultation with the Monitor, develop, adopt, and implement a protocol governing the appropriate composition and deployment of the Facility Emergency Response Teams (i.e., probe teams) in order to minimize unnecessary or avoidable Uses of Force. The new protocol shall address: (i) the selection of Staff assigned to Facility Emergency Response Teams; (ii) the number of Staff assigned to each Facility Emergency Response Team; (iii) the circumstances under which a Facility Emergency Response Team may be deployed and the Tour Commander's role in making the deployment decision; and (iv) de-escalation tactics designed to reduce violence during a Facility Emergency Response Team response. The Department leadership shall regularly review a sample of instances in which Facility Emergency Response Teams are deployed at each Facility to assess compliance with this protocol. If any Staff are found to have violated the protocol, they shall be subject to either appropriate instruction or counseling, or the Department shall seek to impose appropriate discipline. The results of such reviews shall be documented.

is currently being updated with the Monitoring Team's feedback and will be provided to the Monitoring Team for their feedback and approval by the August 31, 2023 deadline.

13. First Remedial Order, § B, ¶ 3: ID Staffing Levels<sup>14</sup> - As discussed in paragraphs 2-4, *supra*, the Investigation Division currently has 19 supervisors (13 Supervising Investigators and 6 Captains) - 16 of which are supervising investigative teams (14 as direct supervisors and 2 in acting DDI roles) and 81 investigators (5 of which are out on long-term leave); 65 of the investigators are assigned to investigative teams, with the remaining investigators assigned to Quality Assurance, video preservation, legal requests, and tracking. The Department has issued a posting for additional investigator positions to bring the investigator total to 85. Additionally, per the Court's August 10, 2023 Order, which was based on Monitor recommendations, Defendants have until December 31, 2023 to maintain 21 supervisors and 85 investigators, pending an internal staffing analysis done by the Department. Dkt. 564. The Monitor has made no updates on caseload targets. Additionally, OMAP is developing an ID Dashboard to provide insight into determining the most effective levels of caseload for investigators.
14. First Remedial Order, § D, ¶ 1: Consistent Staff Assignments and Leadership<sup>15</sup> - See Response to Paragraphs 8 and 9, *supra*.
15. First Remedial Order, § D, ¶ 3; § D, ¶ 3(i): Reinforcement of Direct Supervision<sup>16</sup> - See Response to Paragraph 8 and 9, *supra*.

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<sup>14</sup> Within 60 days of the end of the Eleventh Monitoring Period, the Monitor shall complete a review of the ID case assignment process and caseloads for: (i) ID Investigators who are responsible for conducting Full ID Investigations of Use of Force Incidents; and (ii) Intake Investigators who are responsible for conducting Intake Investigations. Based on the results of this review, the Department, in consultation with the Monitor, shall develop improvements to the case assignment process, as well as reasonable caseload targets ("Caseload Targets") for investigators. These improvements and Caseload Targets shall be subject to the approval of the Monitor. Within 120 days of the end of the Eleventh Monitoring Period, the Department shall implement these improvements and consistently meet the Caseload Targets going forward. The Monitor shall also develop a methodology to be used in assessing compliance with the Caseload Targets.

<sup>15</sup> For all housing units at RNDC that may house 18-year-old Incarcerated Individuals, the Department shall enhance the implementation of a staff assignment system under which the same correction officers, Captains, and ADWs are consistently assigned to work at the same housing unit and on the same tour, to the extent feasible given leave schedules and personnel changes. i. The Department, in consultation with the Monitor, shall enhance the implementation of a quality assurance process to assess on a monthly basis the extent to which the Department complies with the consistent staffing requirements of this Paragraph. These monthly assessments shall include a review of the staffing of a substantial number of RNDC housing units and shall specify the percentage of the total tours for those units that were staffed by the same line correction officers, Captain, and ADWs. The Department shall report the results of its monthly assessments to the Monitor.

<sup>16</sup> Direct Supervision. For all housing units at RNDC that may house 18-year-old Incarcerated Individuals, the Department, including RNDC Supervisors, shall take necessary steps to improve the implementation of the Direct Supervision Model with an emphasis on the development of proactive and interactive supervision; appropriate relationship building; early intervention to avoid potential confrontations; de-escalating conflicts; rewarding positive behavior; and the consistent operation of the unit. The Department, including RNDC Supervisors, shall reinforce the

16. Second Remedial Order, ¶1(i)(a): Interim Security Plan<sup>17</sup> – The Department has continued making critical progress in implementing the Interim Security Plan, what the Department calls the “Violence Reduction Plan”, first implemented at RNDC and replicated with similar and alike strategies at GRVC, to address security practices. The Department, in consultation with the Monitoring Team, was intending to implement the Violence Reduction Plan next at AMKC; AMKC has ceased housing persons-in-custody. Security plan priorities include unsecured doors, post abandonment, key control, post orders, escorted movement with restraints when required, control of undue congregation of people, proper management of vestibules, and security officer keys. In this regard:
- a. The security team conducted audits in all facilities regarding key control, post description, restraint equipment, and no-go zones, and updated key inventory and initiated key control policy review. The Department provided the key control policy draft to the Monitoring Team for review and received feedback on August 16th. The Department will work to address the Monitor’s feedback and obtain approval prior to promulgation.
  - b. The Department introduced standardized roll-call binder to enhance communication from leadership to facility staff and synthesized updated policies into roll call talking points to address poor security practices in all facilities.
  - c. The Department streamlined a process for reporting inoperable cell doors where issues are abated on a proactive and consistent (daily) basis.
  - d. The Department updated post descriptions across all Facilities and instituted a practice to maintain all files through the agency share drive for greater accessibility to MOS.
17. Second Remedial Order, ¶ 1(i)(b): Suicide Prevention<sup>18</sup> - The Department has taken the following steps:
- a. The Department is implementing provision 14 of the Court’s August 10, 2023 Order, regarding an external assessment of the Department’s procedures for preventing and responding to self-harm. Dr. Timothy Belavich was approved by the Monitor as an expert in prevention and response to self-harm in correctional settings. The Department has been working with Dr. Belavich since the winter of 2022. The Department is also working with Dr. Belavich’s colleague, Dr. Robert

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implementation of the Direct Supervision Model with Staff through, among other things, appropriate staff supervision, coaching, counseling, messaging strategies, or roll call training.

<sup>17</sup> Develop, in consultation with the Monitor, and implement an interim Security Plan that describes, in detail, how various security breaches will be addressed by October 11, 2021. This plan shall address, among other things, the following issues: unsecured doors, abandonment of a post, key control, post orders, escorted movement with restraints when required, control of undue congregation of detainees around secure ingress/egress doors, proper management of vestibules, and properly securing officer keys and OC spray.

<sup>18</sup> Communicate to Staff their obligations under the Suicide Prevention and Intervention Policy (“Suicide Prevention Policy”) by ordering Staff to respond timely to self-harming behavior via tele-type, roll call and other forms of on-the-job supervision and guidance. This shall be done immediately and then routinely (e.g. weekly) thereafter. The Department shall also take necessary steps to ensure that Staff follow the Suicide Prevention Policy.

Canning, to conduct the assessment. Dr. Belavich has already observed one 7-day JAR review.

- b. The partnership between the Department and CHS has been enhanced through the JAR and the Self-Harm and Suicide Prevention Task Force, discussed below. There is a weekly review of the self-harm incident review process with CHS, and information sharing barriers between CHS and DOC have been assessed and, when needed, such as with records for Dr. Tim Belavich, the City works with both agencies to obtain any necessary Court relief to permit the lawful sharing of information.
- c. The National Commission on Correctional Health Care (NCCHC) has been engaged to conduct a survey regarding mental health & opioid treatment that will begin in the coming weeks.
- d. The Self-Harm & Suicide Prevention Taskforce was inaugurated in November 2022 and is under the leadership of DC Saunders. DC Saunders held his first Taskforce meeting on March 8th, covering the topics in Self-harm incident reporting, In-Custody Deaths Reviews (2022 + 2023), Suicide Watch List, Assessment and development of Suicide Prevention Policy with H+H, PIC Classification Review and Audit, and Training and Education.
- e. The Self-Harm & Suicide Prevention Taskforce continues to conduct JAR In-Custody Deaths reviews for CY2023, and a sub-Committee was established to review the CY2022 suicide-related deaths to identify clinical, programmatic, and security deficiencies related to the events.
- f. Crisis Intervention Training and De-escalation training were created with the Training Academy to be launched on DOC's Learning Management System (LMS). The training is currently being reviewed by the Monitor's approved external consultant, Dr. Belavich, and will be shared with the Monitor once that review is complete.
- g. Continued collaboration with the Training Academy to train MOS on suicide prevention related trainings. As of the beginning of August, 85% of facility staff are trained on Narcan. Additionally, 67% of staff are trained in their annual suicide prevention refresher.
- h. The Training Academy has also two computer-based training initiatives underway, which help officers stay current in their training without removing them from their mission-critical facility assignments. First, beginning in July of 2023, the Training and Development Division piloted a virtual training initiative designed to efficiently address requests for retraining known as "tickets". Facility business center computers were upgraded, allowing instructor-certified officers on modified medical restriction (MMR) at the Correction Academy to provide one-on-one virtual training sessions. The initiative was first piloted in EMTC and was recently expanded to include RMSC and GRVC. To date, our officers have successfully closed 47 requests for retraining through virtual meeting technology. This number represents approximately 8% of the retraining ticket backlog which existed at the time our virtual training initiative was launched. The Training and Development Division is also moving to expand facility access to on-demand e-learning. The IT Division will soon provide RMSC with Wi-Fi access along with five Chromebooks. This technology will provide members of service around-the-clock access to

important refresher training courses hosted on our Learning Management System (LMS). When DC Gonzalez arrived in December 2022, there were over 1,000 tickets for training. Now, the Department is at approximately 400 tickets for training; the lowest in 5 years.

18. Second Remedial Order, ¶1(i)(c): Intake Processing Within 24 Hours<sup>19</sup> – New Admissions: Beginning in early January 2023, DOC has made significant improvements in its new admission intake process and has trained staff on the use of its intake dashboard. An Assistant Deputy Warden and a Captain have been assigned each shift to supervise the intake process. From early January 2023 to mid-June, as reported in Deputy Commissioner Miller’s most recent affidavit, there were 8,208 individuals (men and women) admitted to DOC custody, and only 46 have exceeded the 24-hour requirement for court to housing. That is 99.5% success rate. Moreover, the Nunez Compliance Unit (“NCU”) has conducted 20 audits of intake at the Eric M. Taylor Center (“EMTC”), where male detainees are admitted. Those audits confirm that there is no evidence of data manipulation. Inter and Intra Facility Intake: DOC uses the Inmate Tracking System (“ITS”) to track the movement of individuals between facilities (from RNDC to GRVC) and between housing units within a facility (from GRVC 7B to 9A). The average time for such transfers is less than six hours. While data entry for such transfers remains less than perfect (in the 10 days from July 10 to July 20, 2023, it varied from 78 percent to 92 percent of transfers being properly entered) DOC has developed a robust support system, which employs a team of five officers, to ensure that no one is languishing in intake. As required by the Court’s August 10 Order, another status report regarding Intake will be filed with the Court on September 15, 2023.
19. Action Plan, § A, ¶1(d): Improved Routine Tours<sup>20</sup> - The Department has procured and implemented the use of tour wands, which in early 2023 was expended to Captains assigned to celled housing areas and within de-escalation units. As of March 2023, the Department has assigned daily review of tour wand data to Tour Commanders for review and appropriate discipline when necessary – Tour Commanders are required to review the tour wand data every tour and document such review in the Tour Commander’s Logbook. Any discrepancies will require the Correction Officer to submit a report explaining the late/missed tour(s). Appropriate discipline may be generated according to “Command Discipline” Directive. Quarterly audits and reports will be conducted by the Office of Facility Operations. Additionally, the Department has developed policies for discipline and compliance with the tour wand policies, which have been shared with the Monitor.

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<sup>19</sup> Process all incarcerated individuals, including but not limited to new admissions and intra-facility transfers, through Intake and place them in an assigned housing unit within 24 hours. The Department shall provide the necessary Intake staff and space to satisfy this requirement. By November 15, 2021, the Department shall develop and implement a reliable system to track and record the amount of time any incarcerated individual is held in Intake and any instance when an individual remains in Intake for more than 24 hours.

<sup>20</sup> The Department shall conduct routine tours, including, but not limited to, tours of the housing units every 30 minutes. The Department shall immediately institute improved practices to ensure that routine touring is occurring, including the use of the “tour” wand by Correction Officers during each tour conducted. The Office of the Commissioner shall audit the electronic records of tours conducted by uniform staff to ensure compliance with touring requirements.



20. Action Plan, § A, ¶3(b)(ii): Executive Leadership<sup>21</sup> - The Department is in the process of vetting a candidate for appointment to the position of Senior Deputy Commissioner. The Department appointed a Deputy Commissioner of Security on May 16, 2022, a Deputy Commissioner of Classification, Custody Management, and Facility Operations on July 25, 2022, and a Deputy Commissioner of Administration on September 6, 2022. Additionally, three Associate Commissioners reporting to the DC of Classification were appointed on August 22, 2022 November 9, 2022 and May 24, 2023. Finally, Assistant Commissioners of Operations were appointed on April 24, 2023 for EMTC, GRVC and RMSC, August 14, 2023 for RESH and OBCC, and June 20, 2023 for RNDC.

21. Action Plan, § C, ¶ 3: Improved and Maximized Deployment of Staff<sup>22</sup> - With respect to the items required by this section, the following steps have been taken:

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<sup>21</sup> The Department shall revise the executive leadership structure as follows: The Commissioner shall appoint a Senior Deputy Commissioner who shall report to the Commissioner. The following positions will report to the Senior Deputy Commissioner: : 1. Deputy Commissioner of Security – this position will include, at a minimum, the responsibilities of the Security Operations Manager outlined in Section D (Security Practices) of this Order. 2. Deputy Commissioner of Classification, Custody Management, and Facility Operations – this position will include, at a minimum, the responsibilities of the Deputy Commissioner of Classification outlined in Section E (Prioritize the Management of People in Custody) of this Order. a. At least two Associate Commissioners of Operations will report to the Deputy Commissioner of Classification, Custody Management, and Facility Operations b. An individual Assistant Commissioner of Operations will be appointed to each facility to partner with and assist departmental Correctional Wardens in monitoring all aspects of facility operations. The Assistant Commissioners of Operations will report to the Associate Commissioner of Operations. 3. Deputy Commissioner of Administration – this position will include, at a minimum, the responsibilities of the Staffing Manager outlined in Section C (Uniform Staffing Practices) of this Order

<sup>22</sup> The Department shall maximize deployment of uniform staff within the facilities by implementing modified staffing practices, including, but not limited to the items outlined below: i. Improved Management of Staff Rosters: Devise a central Roster Management system that tracks uniform staff by assignment to a command, including streamlining the master and daily rosters, and creation of a post assignment classification system for every command, to ensure that uniform staff are appropriately deployed throughout the facilities and that critical posts are filled before non-essential posts. ii. Increased Assignment of Captains in the Facility: Complete a full evaluation of the assignment of all Captains and develop and implement a plan to prioritize assignment of Captains to supervise housing units to increase Captain presence on housing units. iii. Improved Supervision of Captains: Substantially increase the number of Assistant Deputy Wardens currently assigned to the facilities or a reasonable alternative to ensure that there is adequate supervision of Captains. iv. Deployment of Experienced Staff in Housing Units: Create and implement an assignment process in which sufficiently experienced uniform staff are deployed to housing units. v. Awarded Posts: Reduce the use of awarded posts so they are primarily utilized for those positions in which a particular skill set is required. A staff member with an awarded non-mandatory post must be re-deployed to a mandatory post if there are staffing shortages. vi. Maximize Work Schedules: Create and implement alternatives to the work schedule for uniform staff assigned to work in the facilities in order to minimize the use of a 4 by 2 schedule and optimize staff scheduling. vii. Reduction of Uniformed Staff in Civilian Posts: Reduce the assignment of uniform staff to civilian posts, including Temporary Duty Assignment, in order to minimize the reliance on uniform staff for tasks that can and should be reasonably completed by civilians. viii. Post Analysis: Conduct a post analysis, in consultation with the Monitor, that is rooted in correctional best practices and addresses the lapses in the Department’s current staffing practices. The analysis will consider and coordinate staffing determinations the Department has made to revise and improve security practices, in order to staff posts based on reasonable operational need and avoid inefficient staffing practices currently in place (e.g., the “all available” response to all alarms). The Department’s post assignments shall be revised based on the results of the post analysis. ix. Relief Factor: Calculate a reliable and reasonable relief factor after the implementation of the relevant staffing initiatives are in place.

- a. Improved Management of Staff Rosters: The Department has worked to implement scheduling software for staff in 6 facilities, RNDC, GRVC, EMTC, NIC/WF, and RMSC. This system will enable the consolidation of several different staff schedules to maximize deployment of uniform staff and reduce overtime expenditures. The continued operation of the Schedule Management and Redeployment Team has enabled the Department to identify mandatory posts and gaps in staff deployment across facilities to improve security and supervision. See also, 16<sup>th</sup> Report, pgs. 62-63.
- b. Increased Assignment of Captains in Facilities: See 16<sup>th</sup> Report, p. 62. Further, the Department is in the process of updating Captain Training based on Monitoring Team feedback. Once the training is approved by the Monitoring Team a new class of Captains will be promoted, trained, and assigned to facilities;
- c. Improved Supervision of Captains: See response to paragraph 11, *supra*. See also, 16<sup>th</sup> Report, pgs. 62, 64.
- d. Deployment of Experienced Staff in Housing Areas: See 16<sup>th</sup> Report, pg. 63. Further, each individual facility creates a daily line-up by combining the expertise of veteran officers and captains with those who are less experienced. This approach allows for deployment of balanced and effective teams on duty.
- e. Reduce the Use of Awarded Posts: This is an ongoing effort and the Department will continue to consult with the Monitoring Team about use of Awarded Posts.
- f. Maximize Work Schedules: See 16<sup>th</sup> Report, pgs. 62-63.
- g. Reduce Unformed Staff in Civilian Posts: This is an ongoing effort with coordination between HR and executive leadership to identify positions that can be civilianized, such as in HMD and Central Time Management Unit (“CTMU”).
- h. Post Analysis: The jails’ operations have been constantly changing due to the closure of various facilities, therefore, the post analysis is ongoing and continuing to evolve.
- i. Relief Factor: The Department is not currently in a position to extract the information per facility and is continuing to work to obtain that information to calculate a reasonable relief factor, which is being aided by the data generated by the scheduling software.

22. Action Plan, § D, ¶ 2: Improved Security Initiatives<sup>23</sup> - With respect to the items required by this section, the following steps have been taken:

- a. Interim Security Plan: See Response to paragraph 17, *supra*.

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<sup>23</sup> The Department shall implement improved security practices and procedures, including, but not limited to, the following items outlined below: a. the interim Security Plan required by ¶ 1(i)(a) of the Second Remedial Order; b. reduced reliance on the use of the intake following a use of force incident as required by to § A, ¶ 3 of the First Remedial Order. The Security Operations Manager shall also work in collaboration with the Deputy Commissioner of Classification so incarcerated individuals are processed within 24 hours in Intake, as required in § E, ¶ 4 of this Order (below); c. reduced reliance and appropriate composition of Emergency Response Teams required by § A, ¶ 6 of the First Remedial Order and to address the Monitor’s feedback that was provided in 2021; d. improved procedures on how searches are conducted, including addressing the Monitor’s feedback that was provided in 2021; e. enhanced efforts to identify and recover weapons and other contraband; f. improved escort techniques to eliminate the unnecessary use of painful escort holds; g. self-harm procedures and policies as required by ¶ 1(i)(b) of the Second Remedial Order; and h. Post Incident Management protocol as required by to ¶ 1(i)(e) of the Second Remedial Order.



- b. Reduced Reliance on Intake Following a UOF Incident (and processing through intake within 24 hours): See response to paragraph 18, *supra*. In addition, with respect to reducing reliance on intake following a UOF incident, NCU conducts audits to determine how the Department is de-escalating persons-in-custody after a UOF. The audits indicate whether the Department brings the individual to intake or de-escalates them in the housing area. The audits are shared with facility leadership.
  - c. Reduced Reliance on and Appropriate Composition of Emergency Response Teams: See response to paragraph 12, *supra*.
  - d. Improved Search Procedures: Search procedures will be revised in compliance with the Court's August 10 Order.
  - e. Enhanced Efforts to Identify and Recover Weapons and Other Contraband:
    - i. In Fiscal Year 2023 ("FY23"), Tactical Search Operations led to the recovery of close to 1,500 weapons Department-wide.
    - ii. Similarly, in FY23, the Department had approximately 615 drug discoveries in the mail. This is a 64% increase from FY22, where drug discoveries in the mail was approximately 375.
    - iii. In FY23, the Department conducted over 45,000 searches of visitors, which resulted in 139 arrests on charges of promotion of prison contraband. There was a 93% increase in visitor arrests when comparing to FY22 (72 arrests) with FY23 (139 arrests).
    - iv. Body scanners have also been installed in RNDC and OBCC, for staff, to aid in the detection of contraband entering facilities.
  - f. Improved Escort Techniques: Escort procedures will be revised in compliance with the Court's August 10 Order.
  - g. Self-harm procedures and policies: See paragraph 17, *supra*.
  - h. Post incident management protocol: See paragraph 22(b), *supra*.
23. Action Plan, § D, ¶ 3: Consultation and Direction of the Monitor With Respect to Security Practices<sup>24</sup> - The Department continues to develop plans and initiatives to improve security practices, including consultation with the Monitor. A few examples of recent collaboration on security practices include: The Department consulted the Monitoring Team on its court production procedure and associated teletype, receiving its approval of both. The Department also consulted with the Monitoring Team regarding changes to the Department's lock-in and lock-out procedures and obtained approval of the related teletype. The Department will continue consulting with the Monitoring Team during lock-in and lock-out change implementation. Finally, the Department consulted with the Monitoring Team on the Department's Key Control policy. The Department received the Monitoring Team's feedback on August 15, 2023 and is working to address the feedback. The revised Key Control policy will be provided to the Monitoring Team for its approval.

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<sup>24</sup> The Department shall consult with the Monitor on the system, plans, and initiatives to improve security practices as set forth in § D., ¶ 2 of this order above. If the Department's proposed systems, plans or initiative(s) fail to adequately and reasonably address the requirements of § D., ¶ 2 above, the Monitor, within 15 business days, must advise the Department in writing that the plan is insufficient to achieve compliance with the provision. The Monitor may direct the Department to refine the initiative(s) as necessary to ensure compliance with the provision. The Department must then implement the revised initiative(s), including any additional requirements from the Monitor.

24. Action Plan, § E, ¶ 3(a): Processing Through Intake in 24 Hours<sup>25</sup> – See response to paragraph 18, *supra*.

25. June 13, 2023 Order, § 5: Engage in Proactive Communications with the Monitor Related to the *Nunez* Court Orders<sup>26</sup> - The Department is committed to continued communication with the Monitor, and provides, with reasonable notice information of any new policy or practice to the Monitor in order to receive feedback from the Monitor prior to implementation. Since June 2023, the Department has appointed a Nunez Manger, who has “helped to improve the facilitation of information to the Monitoring Team.” Dkt. 557 at 165. Additionally, since the August 10, 2023 Status Conference, the Commissioner has spoken with the Monitor twice and will continue to reach out to the Monitor when he has information to share.

Respectfully,

/s/

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John Schemitsch

cc: By Email  
Steve J. Martin  
Nunez Monitor

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<sup>25</sup> Processing Incarcerated Individuals Through Intake Within 24 Hours: The Department shall implement the requirements of ¶ 1(i)(c) of the Second Remedial Order.

<sup>26</sup> Engage in Proactive Communication with the Monitor related to the *Nunez* Court Orders: The Department shall proactively consult with the Monitor in advance of promulgating any new policies or procedures that relate to compliance with the *Nunez* court orders. The Department shall provide the Monitor reasonable notice and information of any such new policy and practice, at least 3 weeks prior to planned implementation, in order to afford the Monitor an opportunity to provide meaningful feedback and for the Department to consider and reasonably incorporate any feedback from the Monitor prior to implementing any new policy and practice.